

REMARKS

Claims 1-40 are pending in the application. Applicants have amended the specification, and the claims by this Amendment to more clearly define their invention.

Amended claim 1 is directed to a shoe or leather care product in the form of a water continuous emulsion, which includes a high amount of an aqueous phase, an oil phase and an emulsifier system that includes a particular co-emulsifier. The co-emulsifier includes a first component chosen from the group of carboxylic acids, fatty acids and a combination thereof and a second component chosen from the group of multivalent neutralizing agents, multivalent cations, multivalent metal soaps, a multivalent amine and combinations thereof. The emulsion so formed has a VOC below 22 wt%, based on the weight of total product.

Surprisingly, and due to the choice of the co-emulsifier, the shoe or leather product of the amended claims has a sufficient consistency or paste hardness as measured by penetrometry, despite the fact that it contains a large amount of water. This is highly unexpected since one would expect, as a result of the high water content, a product with a low viscosity which would be relatively free-flowing and not have a paste-like consistency.

Applicants respond specifically to the issues raised in the Office Action mailed on November 7, 2005 as follows:

Objections

At page 2, lines 9-14 of the Office Action, the Examiner objects to the large number of times “and/or” is used in the specification from pages 23-36 to describe preferred compositions. The Applicants have amended the specification and deleted the term “and/or.”

At page 2, lines 15-18 of the Office Action, the Examiner objects to claim 28, finding that there is no teaching in the specification of the claimed subject matter. The Applicants have amended the specification to add the required teaching. Support for revising the specification is found in European Patent Application No. 03076143.1 (a copy is being submitted herewith), the priority document for the present application.

At page 3, lines 3-6 of the Office Action, the Examiner objects to claims 14 and 30 as being of improper dependent form. Applicants have amended claim 14 so that it is proper dependant form and cancelled claim 30.

At page 3, lines 10-13 of the Office Action, the Examiner objects to claims 19 and 27 as containing subject matter which was not sufficiently described in the specification. Applicants have amended claim 19 to limit the constituent material having an HLB value below 13 to the first component of the co-emulsifier. Support for the materials is found at pages 44-48 of the specification. Claim 27 depends on amended claim 1 which has been amended to recite “a water

continuous emulsion.” Support for the total summation value of 0.5-40 mg KOH in claim 27 is found in the specification at page 20, lines 18-22. Claims 37 and 38 have been cancelled.

At page 4, lines 8-13 of the Office Action, the Examiner objects to claim 36 because it is not enabled by the specification. Applicants have amended claim 36 to limit the silicones to the dimethicone copolyol/polyether modified polydimethylsiloxanes disclosed in the specification.

At page 5, lines 1-3 of the Office Action, the Examiner objects to claims 16-18, 20, 21, 23, 24, 27, 30 and 39 as being indefinite. Claim 16 has been cancelled and the limitations in claim 16 have been added to amended claim 1 without the term “and/or.” Amended claim 1 now includes “multivalent amines” and amended claim 17 limits the “multivalent amines” to “di-, tri- or multiamine soaps.” Claim 18 has been cancelled.

Claims 16, 18, 20 and 21 have been found to be indefinite because it is unclear how and why the multivalent cations do not react. Applicants submit that the claims are not limited to shoe or leather care products wherein the multivalent cations do not react. One of ordinary skill in the art would understand that some of the multivalent cations will react and some will not. Accordingly, the claims are not indefinite and the Applicants respectfully request that the objection be withdrawn.

Claim 27 has been amended to positively recite that the product has a total summation of the saponification value, the hydroxyl value, and the nitrogen value between 0.5-40 mg KOH per gram. Claims 30 and 39 have been cancelled.

Claim Rejections -- 35 USC § 102(b)

Claims 1-10, 12, 26-28, 31-34, 37, 39 and 40 have been rejected under 35 U.S.C. 102(b) as being anticipated by EP 1,000,990, which discloses a water based shoe care product in the form of an emulsion containing wax, water and an emulsifier. The disclosed shoe care product is based on a specific, non-ionic emulsifier, i.e., an alcohol having 6 to 28 carbon atoms alkoxylated with an alkene oxide having 2 to 4 carbon atoms.

In contrast to EP 1,000,990, the amended claims of the present application are directed to a shoe or leather care product that includes a surfactant in an amount of 0.2-10% by weight of total product and a co-emulsifier in an amount of 0.2-16% by weight of total product. EP 1,000,990 neither teaches nor suggests the use of a surfactant and a co-emulsifier. Accordingly, the Applicants respectfully request that the rejection of claims 1-10, 12, 26-28, 31-34, 37, 39 and 40 be withdrawn.

Claim Rejections -- 35 USC § 102(b) and 35 USC § 103

Claims 1-14, 25-32, 35, 37, 39 and 40 have been rejected under 35 U.S.C. 102(b) as being anticipated by DE 3,541,434 and claims 1-15, 25-32, 35, 37, 39 and 40 have been rejected under 35 U.S.C. 103(a) as being obvious in view of DE 3,541,434. DE 3,541,434 is discussed in the specification at page 4, lines 11-16 discloses a shoe care product in the form of an emulsion containing wax, emulsifier, water and an anionic polysaccharide as co-emulsifier.

The amended claims of the present invention require a co-emulsifier that includes a first component chosen from the group of carboxylic acids, fatty acids and a combination thereof and

a second component chosen from the group of multivalent neutralizing agents, multivalent cations, multivalent metal soaps, a multivalent amine and combinations thereof. Such a co-emulsifier is neither taught nor suggested by the anionic polysaccharide co-emulsifier disclosed in DE 3,541,434. Accordingly, the Applicants respectfully request that the rejection of claims 1-15, 25-32, 35, 37, 39 and 40 be withdrawn.

Claims 1, 3, 4, 8-10, 12, 26, 28, 31, 32, 35, 39 and 40 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No, 4,497,919 to Varga et al. ("Varga") and claims 1-10, 12, 26-28, 31, 32, 35 and 38-40 have been rejected under 35 U.S.C. 103(a) as being obvious in view of Varga. Varga teaches water-in-oil emulsion polish compositions that includes a wax mixture, a film-forming agent, a film-modifying agent, a nonionic emulsifying agent, a dispersing agent, a thickening agent, a solvent, and preservatives in water. Varga neither teaches nor suggests the surfactant or co-emulsifier of the shoe and leather care products of the amended claims. Accordingly, the Applicants respectfully request that the rejection of claims 1-10, 12, 26-28, 31, 32, 35 and 38-40 be withdrawn.

Claims 1, 2, 6-14, 22, 26, 28, 29, 31, 32, 35, 37 and 39 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No, 4,554,083 to Soldanski et al. ("Soldanski") and claims 1-14, 22, 25-27, 31, 32, 35, 37 and 39 have been rejected under 35 U.S.C. 103(a) as being obvious in view of Soldanski. Soldanski discloses a liquid leather-care composition containing: a wax; lanolin; a dispersible; film-forming aliphatic polyurethane resin; a water-soluble polymeric polycarboxylic acid; a non-ionic emulsifier; a water-soluble

hydroxyalkylamine; at least one of perfume oils, preservatives, foam inhibitors, emulsifying aids, and dyes; and a liquid flow promoter. Soldanski neither teaches nor suggests the co-emulsifier of the amended claims. Accordingly, the Applicants respectfully request that the rejection of claims 1-14, 22, 25-27, 31, 32, 35, 37 and 39 be withdrawn.

Claims 1-6, 8, 12, 26, 28, 31, 32, 39 and 40 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No, 6,190,572 to Chen ("Chen") and claims 1-12, 26-28, 30-35 and 37-40 have been rejected under 35 U.S.C. 103(a) as being obvious in view of Chen. Chen discloses a polishing composition that is an emulsion formed by mixing a water phase and an oil phase. The water phase contains a mixture of an antiseptic, an ethylamine, and water. The oil phase contains a mixture of carnauba, bees wax, an oleic acid, and an antioxidant. Chen neither teaches nor suggests the surfactant or co-emulsifier of the shoe and leather care products of the amended claims. Accordingly, the Applicants respectfully request that the rejection of claims 1-12, 26-28, 30-35 and 37-40 be withdrawn.

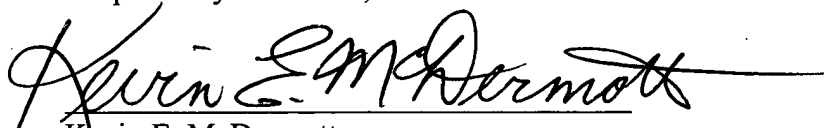
Claims 1, 2, 26, 28, 39 and 40 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No, 3,551,169 to Congdon ("Congdon") and claims 1-13, 25-28, 30-32, 37, 39 and 40 have been rejected under 35 U.S.C. 103(a) as being obvious in view of Congdon. Congdon discloses a liquid wax-in-water emulsion comprising petroleum paraffin wax in water. Congdon neither teaches nor suggests the co-emulsifier of the amended claims. Accordingly, the Applicants respectfully request that the rejection of claims 1-13, 25-28, 30-32, 37, 39 and 40 be withdrawn.

Claims 1, 2, 26, 28, 39 and 40 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No, 3,931,079 to Wise et al. ("Wise") and claims 1-15, 25-28, 30-32, 35, 37, 39 and 40 have been rejected under 35 U.S.C. 103(a) as being obvious in view of Wise. Wise teaches a wax emulsion comprising a wax, silicones, an emulsifier and a viscosity regulator. Wise neither teaches nor suggests the co-emulsifier of the amended claims. Accordingly, the Applicants respectfully request that the rejection of claims 1-13, 25-28, 30-32, 37, 39 and 40 be withdrawn.

Conclusion

The amended claims require the use of both a surfactant and a co-emulsifier in a shoe or leather care product. Such a combination is neither taught nor suggested in the cited references. Therefore, the Applicants submit that the amended claims are neither anticipated by nor obvious and respectfully request that the Examiner withdraw the rejections based on these references and allow the claims.

Respectfully submitted,



Kevin E. McDermott
Registration No.: 35,946
Attorney for Applicants

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(516) 822-3550
KEM:dlb
213043_1